

Abstract

The creation and the development of the Internet is without doubts one of the key moments not only of the technological, but also of the social and informational development of the mankind. The Internet had developed from the technological tool into the socio-technical phenomenon. For many people, including me, the Internet has become the ultimately prevailing means of the communication, which in the recent years has exponentially raised the number of its users and thus has gained the position of the most important mass medium of today's world. We do not speak only of communication when talking about the Internet, but we must also mention the informational role of it as well as that the Internet means also the centre of entertainment, business place and the place of social interaction.

Nevertheless the Internet had changed since the very beginning of it. This development is known as the evolution and turn from the site called Web 1.0 to the site called Web 2.0. Simply it means that end users of the Internet are more involved in the process of creating the actual content of the Internet. From this point of view many legal questions arise, especially concerning the liability for the content publicized on the Internet. It is very complicated to trace the concrete infringer in the environment of the Internet because it is characterized with mass and anonymity. Infringements appear in great quantity particularly in the field of the intellectual property. The intellectual property system in the present estate exists and is enforceable, thus everyone shall observe it. That is why the intellectual property rights holders seek the remedy from the subjects, that are known - subjects who had deliberately provided the infringers of the intellectual property rights the technological infrastructure, which was used for infringing acts. These subjects provide under the European legislation as well as under the Czech regulation so called information society service.

The purpose of my diploma thesis is to provide self-contained analysis of the law regulation concerning the liability of the information society service provider on the European and the national level and to explain the key terms related to the topic of this paper as well as to point out difficulties arising from said regulation especially in the field of intellectual property which may and do appear in great quantity. The regulation is included in the e-commerce directive on the European level and was adopted into the Czech law system by the law on services of the information society. The regulation does not establish the liability

regime for the information society service provider. Rather it contains conditions under which the information society service provider shall not be held liable. In other words it means, that one of three explicitly regulated types of information society service provider needs to meet requirements to qualify for the limited liability regime otherwise it is liable in every case. Moreover, unlike in the United States, the European legislator has taken horizontal approach to this issue meaning that all the illegal activities are concerned with the liability regime legislation, not only copyright infringements.

De lege ferenda it is advisable in my opinion to think about the overall composition of the present intellectual property rights protection system. It is obvious, that something must be wrong, when the majority of the young generation of the mankind do not observe the rules arising out of the intellectual property rights system and this system must react to it. I am personally not convinced that the more restrictive approach within the present system would lead to enhancement of the situation. We could listen to plea of the leading theoretician Lawrence Lessig who seeks the deregulation of the rigid intellectual property rights protection system, at least when it comes to the new creations using the existing pieces for the non-commercial purposes. I am of the opinion that this statement is true and the change of the intellectual property regime is advisable, during which time the searching for the alternative models is the right way to go.